

**Aug 10, 2020**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MONICA PESINA (01) and  
NICHOLAS SEAN CARTER (02),

Defendants.

No. 2:20-cr-00005-SMJ-01

2:20-cr-00005-SMJ-02

**ORDER GRANTING  
DEFENDANTS' MOTION TO  
CONTINUE TRIAL**

Before the Court is the Defendants' Motion to Continue Trial, ECF No. 72. In light of the ongoing public health crisis caused by the outbreak of the Coronavirus Disease 2019 (COVID-19) and the current status of Benton and Yakima Counties in the phased Safe Start plan announced by Washington Governor Jay Inslee, the Court finds that it is in the interests of justice to continue the trial currently set for September 28, 2020 to December 7, 2020. Therefore, the unopposed motion to continue, **ECF No. 72**, is **GRANTED**.

**TRIAL**

Consistent with Eastern District of Washington General Order 20-101-8, the jury trial currently set to commence on September 28, 2020 is **STRICKEN** and

1 **RESET to December 7, 2020 at 9:00 A.M. in Richland.** The Court finds failing  
2 to reschedule the jury trial poses an undue risk of transmission of the virus,  
3 including to Defendant, counsel, Court staff, law enforcement personnel, and the  
4 public at large. Moreover, the impact of public health advisories has reduced the  
5 availability of Court staff to conduct the jury trial as scheduled.

6 **PRETRIAL CONFERENCE**

7 The pretrial conference, ECF No. 71, currently set for August 27, 2020, is  
8 **STRICKEN and RESET to November 12, 2020 at 9:00 A.M. in Richland**  
9 Courtroom 189 before Judge Salvador Mendoza, Jr.

10 Accordingly, **IT IS HEREBY ORDERED:**

11 **A.** The jury trial, currently set to commence on September 28, 2020 is  
12 **STRICKEN and RESET to December 7, 2020 at 9:00 A.M. in**  
13 **Richland.** The final pretrial conference will commence at **8:30 A.M.**  
14 on the first day of trial.

15 **B.** The Court finds, given the outbreak of the COVID-19 virus, that  
16 failing to reschedule the jury trial would result in undue risk to  
17 Defendant, counsel, law enforcement, Court staff, and the public at  
18 large. The Court also finds the impact of public health advisories on  
19 the availability of Court staff requires the hearing be rescheduled. The  
20 Court, therefore, finds the ends of justice served by resetting the jury

trial in this matter outweigh the best interest of the public and Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

C. Pursuant to 18 U.S.C. § 3161(h)(7)(A) and General Order No. 20-101-8, the Court **DECLARES EXCLUDABLE from Speedy Trial Act calculations** the period from **September 28, 2020**, the date presently set for trial, through **December 7, 2020**, the new trial date, as the period of delay required by the interests of justice as to both Defendants.


D. In light of the delay associated with this Order, the remaining case management dates and deadlines in this matter are amended as follows:

|   | <b>Current<br/>Date/Deadline</b>                               | <b>Revised<br/>Date/Deadline</b>                                     |
|---|--|--|
| All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed | <b>July 23, 2020</b>   | <b>October 8, 2020</b>   |
| <b>PRETRIAL CONFERENCE</b><br><i>Deadline for motions to continue trial</i>                                     | <b>August 27, 2020<br/>9:00 AM –<br/>RICHLAND</b>              | <b>November 12, 2020<br/>9:00 A.M. –<br/>RICHLAND</b>                |
| CIs' identities and willingness to be interviewed disclosed to Defendant (if applicable)                        | <b>August 28, 2020</b>   | <b>November 23, 2020</b>   |
| Grand jury transcripts produced to Defendant<br>Case Agent:<br>CIs:<br>Other Witnesses:                         | <b>August 14, 2020<br/>August 28, 2020<br/>August 14, 2020</b> | <b>November 23, 2020<br/>November 23, 2020<br/>November 23, 2020</b> |
| Exhibit lists filed and emailed to the Court  | <b>September 4, 2020</b>                                       | <b>November 30, 2020</b>   |

|   |  |  |  |
|---|--|--|--|
| 1 | Witness lists filed and emailed to the Court   | <b>September 4, 2020</b>                             | <b>November 30, 2020</b>                           |
| 2 | Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court | <b>September 4, 2020</b>                             | <b>November 23, 2020</b>                           |
| 3 | Exhibit binders delivered to all parties and to the Court  | <b>September 18, 2020</b>                            | <b>November 23, 2020</b>                           |
| 4 | Delivery of JERS-compatible digital evidence files to the Courtroom Deputy                             | <b>September 18, 2020</b>                            | <b>November 30, 2020</b>                           |
| 5 | Trial notices filed with the Court   | <b>September 18, 2020</b>                            | <b>November 23, 2020</b>                           |
| 6 | Technology readiness meeting (in-person)   | <b>September 18, 2020</b>                            | <b>November 30, 2020</b>                           |
| 7 | <b>JURY TRIAL</b>  | <b>September 28, 2020<br/>9:00 AM -<br/>RICHLAND</b> | <b>December 7, 2020<br/>9:00 AM -<br/>RICHLAND</b> |

11  
12 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
13 provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals  
14 Service.

15 **DATED** this 10th day of August 2020.

16  
17   
18 **SALVADOR MENDOZA, JR.**  
United States District Judge